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25 January 2023

Dear Finlay,

### **The Welfare of Animals (Transport) (Miscellaneous Amendments) Regulations 2023**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI.

This instrument amends retained EU law governing the protection and welfare of animals during transport and official controls of imports to Great Britain of animals, animal products, plants and plant products, including food and other imports relevant to the agri-food chain.

The instrument also rectifies errors introduced by prior instruments amending retained EU law.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee. I look forward to hearing from you.

Yours sincerely,



**MAIRI GOUGEON**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



## SI NOTIFICATION: SUMMARY

<b>Title of Instrument;</b> Welfare of Animals (Transport) (Miscellaneous Amendments) Regulations 2023
<b>Proposed laying date at Westminster;</b> 8 <sup>th</sup> March 2023
<b>Date by which Committee has been asked to respond</b>
<b>Power(s) under which SI is to be made</b> Articles 30(1) and 30a(8) of Council Regulation (EC) No 1/2005, and Articles 144(6) and 154(2) of Regulation (EU) 2017/625
<b>Categorisation under SI Protocol;</b> Type 1
<p>The aim of the OCR is to provide an integrated and uniform approach to official controls across the agri-food supply chain covering food and feed law and rules on animal health and welfare, plant health and plant protection products and to ensure a consistent approach to official controls and official activities across these sectors.</p> <p>Commencement of the remaining provisions of Article 21 of the OCR will ensure a consistent regime of official controls for both animal health and welfare in place of the current dual controls. It will not result in any changes to the nature of the checks conducted by the Animal and Plant Health Agency (APHA), on behalf of the Secretary of State, Scottish Ministers and Welsh Ministers, to ensure compliance with Regulation 1/2005.</p>
<b>Other information</b>
<b>SG Policy contact:</b> Stewart Forsyth

## **NOTIFICATION TO THE SCOTTISH PARLIAMENT**

### **Name of the SI(s) (if known) or a title describing the policy area**

The Welfare of Animals (Transport) (Miscellaneous Amendments) Regulations 2023

### **Is the notification Type 1 or Type 2**

#### **Type 1**

The Welfare of Animals (Transport) (Miscellaneous Amendments) Regulations 2023 will have 3 effects:

1. It exercises the power in Article 30(1) of Council Regulation (EC) 1/2005 to amend Annex II of that Regulation which makes provision in relation to the journey log to be completed for the transport of animals in the event of long journeys,
2. It exercises the power in Article 154(2) of Regulation (EU) 2017/625 (“the Official Controls Regulation”) to specify the date at which provisions of the Official Controls Regulation will replace the corresponding provisions of Council Regulation (EC) 1/2005 in respect of the actions to be taken by the competent authority in order to ensure the welfare requirements for animals are met,
3. Amends references in subordinate domestic legislation in order to reflect the above changes.

This instrument brings the official controls relating to animal welfare in transport under the same regime as other official controls relevant to animal health and welfare in the context of monitoring the agri-food supply chain. It also clarifies the obligations of animal transporters and keepers, places greater responsibility on journey organisers in relation to the preparation and completion of journey logs and clarifies the process for the approval of journey logs.

The date at which the proposed instrument is expected to be laid before the UK Parliament is 8<sup>th</sup> March 2023.

### **Details of the provisions that Scottish Ministers are being asked to consent to.**

#### Amendments to Annex II to Regulation (EC) 1/2005

The requirement for an approved journey log in relation to the movement of animals applies to journeys over 8 hours from third countries to Great Britain, from Great Britain to third countries or that transit through Great Britain involving the transportation of livestock or unregistered horses. The amendments to Annex II to Regulation 1/2005 clarify the obligations of transporters, organisers and keepers in relation to journey logs, as follows:

- Annex II is amended to the effect that the organiser (defined as the person who has overall responsibility for planning the journey) of a journey is responsible for the compilation of the journey log and signing Section 1

thereof, which sets out the planned journey. The organiser is also responsible for the submission of the journey log to the competent authority at least two working days before the proposed departure date.

- The organiser is responsible for ensuring that the proposed journey does not commence before the competent authority has confirmed in writing that it is satisfied that the proposed journey is realistic and complies with the requirements of Regulation 1/2005, and that the GB transporters involved in the journey have valid authorisations, certificates of approval for their means of transport and certificates of competence for any drivers and attendants. The organiser is also responsible for ensuring that the journey log remains with the animals throughout the entire journey.
- The organiser is responsible for ensuring that where the place of destination, place of transit or place of departure is outside Great Britain, the keeper of the animals at such a place completes the relevant section of the journey log at the “relevant time”, which is defined as being immediately prior to the loading of the animals at the place of departure, and immediately after unloading at the place of transit / destination.
- The organiser is responsible for submission of the completed journey log to the competent authority no later than one month after the day on which the animals were unloaded at their place of destination, and where the completed journey log is in paper form, the retention of the journey log for a period of three years.

#### Commencement of Article 21 of Regulation (EU) 2017/625 (“the OCR”)

The OCR (Official Controls Regulation) makes provision relevant to the checks to be carried out by the appropriate authority to ensure the application of food and feed law and rules on animal health and welfare and plant health. One of the effects of the OCR is to substitute equivalent provisions for those set out in individual pieces of legislation relevant to specific policy areas. Article 21 of the OCR makes provision equivalent to Articles contained in Regulation 1/2005 (on the protection of the welfare of animals during transport) and allows the relevant appropriate authority to specify a date on which this substitution will take effect. This instrument specifies this date as 6 April 2023.

#### Amendments to domestic subordinate legislation

This instrument makes consequential amendments to the Welfare of Animals (Transport) (Scotland) Regulations 2006, by adjusting references to Regulation 1/2005 in order to reflect the changes made to provisions relating to the journey log, and the commencement of Article 21 of the OCR.

#### **Summary of the proposals**

The amendments to Regulation (EC) 1/2005 will clarify requirements in respect of journey logs for the transport of animals on log journeys.

Commencement of the remaining provisions of Article 21 of the OCR will ensure a consistent regime of official controls for both animal health and welfare in place of

the current dual controls. It will not result in any changes to the substantive nature of the checks conducted by the Animal and Plant Health Agency (APHA), on behalf of the Secretary of State, Scottish Ministers and Welsh Ministers, to ensure compliance with Regulation 1/2005.

The changes being made will apply across Great Britain.

**Does the SI relate to a common framework or other scheme?**

Not applicable

**Summary of stakeholder engagement/consultation**

The targeted consultation was issued jointly by the UK, Scottish and Welsh governments and sought views from those who would potentially be affected by, or have an interest in, the proposals. Those consulted included representatives from industry, animal welfare non-governmental organisations and enforcement bodies.

The consultation was open for responses for nine weeks.

The majority (71%) of respondents agreed with the proposals to commence the remaining provisions on official controls relating to animal welfare in transport as soon as possible. The majority (71%) of respondents also agreed or strongly agreed with the proposal to update Annex II to Regulation 1/2005 to provide clarity on the compliance checks conducted by APHA. All respondents agreed (86%) or strongly agreed (14%) with the proposal to extend the role of the organiser to make them responsible for completion of the journey log throughout the process.

**A note of other impact assessments, (if available)**

There is no, or no significant, impact on business, charities or voluntary bodies.

There is no, or no significant, impact on the public sector. A De Minimis Assessment has been prepared for this instrument by Defra. A De Minimis Assessment was considered appropriate as these technical amendments result in minimal cost to businesses. The estimated Equivalent Annual Direct Net Cost to Business (EADNCB) falls below the threshold of £5 million per annum. Further, this reform is not deemed controversial.

**Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation**

The Scottish Government will normally wish to give consent to legislating by way of a UK SI where the policy objectives of UK and Scottish Ministers are aligned and there are no good reasons for having separate Scottish subordinate legislation.

The changes made by this instrument offer a useful clarification of the rules relating to long journeys, and the carrying out of official controls for the protection of animals in transport which are currently carried out on a GB-wide basis. The Scottish Ministers do not consider the changes will have any adverse impact on Scottish agriculture.

**Intended laying date (if known) of instruments likely to arise**

**8<sup>th</sup> March 2023**

**If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?**

N/A

**Information about any time dependency associated with the proposal**

N/A

**Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?**

N/A

**Any significant financial implications?**

No